



Superannuation Industry (Supervision) Amendment Regulation 2012 (No. 6)¹

Select Legislative Instrument 2012 No. 330

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Superannuation Industry (Supervision) Act 1993*.

Dated 6 December 2012

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

WILLIAM RICHARD SHORTEN
Minister for Financial Services and Superannuation

1 Name of regulation

This regulation is the *Superannuation Industry (Supervision) Amendment Regulation 2012 (No. 6)*.

2 Commencement

This regulation commences on 31 January 2013.

3 Amendment of *Superannuation Industry (Supervision) Regulations 1994*

Schedule 1 amends the *Superannuation Industry (Supervision) Regulations 1994*.

Schedule 1 Amendments

(section 3)

[1] Subregulation 1.03 (1)

insert

registered company auditor has the same meaning as in section 9 of the *Corporations Act 2001*.

[2] Subregulation 1.04 (2)

substitute

Approved auditor

- (2) For the purposes of paragraph (b) of the definition of ***approved auditor*** in subsection 10 (1) of the Act, the following class of persons is specified, namely individuals each of whom is:
- (a) registered, or taken to be registered, as an auditor under Division 2 of Part 9.2 of the *Corporations Act 2001*; or
 - (b) the Auditor-General of the Commonwealth, a State or a Territory, or a delegate of the Auditor-General.

[3] **After Part 9**

insert

Part 9A Approved SMSF auditors

9A.01 Qualifications

- (1) For subparagraph 128B (1) (a) (i) of the Act, each of the following subregulations sets out a qualification.
- (2) A degree, diploma or certificate in accounting of not less than 3 years, which includes a course in audit, from either of the following bodies (a ***relevant body***):
 - (a) a university mentioned in Part 1 of the table in regulation 9.2.02 of the *Corporations Regulations 2001*;
 - (b) the institution mentioned in Part 2 of the table in regulation 9.2.02 of the *Corporations Regulations 2001*.
- (3) Both:
 - (a) a degree, diploma or certificate in accounting of not less than 3 years, which does not include a course in audit, from a relevant body; and
 - (b) satisfactory completion of a course in audit (a ***relevant course***) mentioned in regulation 9A.02.
- (4) Both:
 - (a) a degree, diploma or certificate in accounting of not less than 3 years, which does not include a course in audit, from a relevant body; and
 - (b) satisfactory completion of the self managed superannuation fund specialist auditor program conducted by the SMSF Professionals' Association of Australia Limited.
- (5) A qualification or combination of qualifications which the Regulator regards as equivalent to the degree, diploma or certificate mentioned in subregulation (2), (3) or (4).

Note The applicant need only have a qualification mentioned in subregulation 9A.01 (2), (3), (4) or (5).

9A.02 Relevant courses

For paragraph 9A.01 (3) (b), the relevant courses are:

- (a) the following courses conducted by the Institute of Chartered Accountants in Australia:
 - (i) Audit and Assurance in the CA Program;
 - (ii) Financial Reporting and Assurance in the CA Program;
 - (iii) Accounting 2 in the Professional Year Program;
 - (iv) Audit and EDP Module in the Professional Year Program;
 - (v) an audit module in the Professional Year Program conducted before 1986 that is equivalent to a course mentioned in subparagraph (i), (ii), (iii) or (iv); and
- (b) the following courses in the CPA Program conducted by CPA Australia:
 - (i) Assurance Services and Auditing;
 - (ii) Advanced Audit and Assurance; and
- (c) the following courses conducted by, or on behalf of, the Institute of Public Accountants:
 - (i) Issues in Auditing and Professional Practice in the Graduate Certificate in Professional Accounting, offered by the University of New England in conjunction with the Institute of Public Accountants;
 - (ii) Issues in Auditing and Professional Practice in the Degree of Master of Commerce (Professional Accounting), offered by the University of New England in conjunction with the Institute of Public Accountants.

9A.03 Practical experience

For subparagraph 128B (1) (a) (ii) of the Act, each of the following is practical experience:

- (a) at least 300 hours of work auditing self managed superannuation funds under the direction of an approved SMSF auditor in the 3 years immediately before applying to be an approved SMSF auditor;

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- (b) practical experience that the Regulator regards as equivalent to the practical experience mentioned in paragraph (a).

Note The applicant need only have the practical experience mentioned in paragraph 9A.03 (a) or (b).

9A.04 Continuing professional development requirements

- (1) For paragraph 128F (a) of the Act, the requirements in this regulation form the continuing professional development requirement.
- (2) The approved SMSF auditor must undertake at least 120 hours of continuing professional development every 3 years.
- (3) The development must:
 - (a) include 30 hours of development about superannuation at least 8 hours of which is development about auditing of self managed superannuation funds; and
 - (b) be development that could reasonably be expected to enhance an approved SMSF auditor's technical skills or professional service delivery.
- (4) The approved SMSF auditor must keep a written record of the development undertaken by the approved SMSF auditor for at least 3 years after the end of the financial year in which the development occurred.

9A.05 Professional indemnity requirements

- (1) For paragraph 128F (b) of the Act, each of the following subregulations sets out a level of professional indemnity insurance.
- (2) The level that is set under a limitation of liability scheme provided by a professional organisation mentioned in Schedule 1AAA.
- (3) The level that:
 - (a) is adequate to ensure that the amount of coverage in relation to a single claim or in aggregate is at least \$500,000; and

- (b) is adequate because other terms of the policy will indemnify the auditor against civil liability that may arise from an act, error or omission in connection with audits of self managed superannuation funds.

Note The applicant need only have the level of professional indemnity insurance mentioned in subregulation 9A.05 (2) or (3).

9A.06 Auditor independence requirements

For paragraph 128F (d) of the Act, the auditor independence requirements produced by the Accounting Professional and Ethical Standards Board Limited and set out in the APES 110 Code of Ethics for Professional Accountants are prescribed for all approved SMSF auditors.

Note At the commencement of this regulation, a copy of the APES 110 Code of Ethics for Professional Accountants was available at www.apesb.org.au.

9A.07 When fees must be paid

For subsection 128L (3) of the Act, the table sets out when fees imposed under the *Superannuation Auditor Registration Imposition Act 2012* are due and payable.

Item	A fee payable for ...	is due and payable ...
1	applying for registration as an approved SMSF auditor	when the application is submitted
2	undertaking a competency examination in accordance with section 128C of the Act	when applying to sit the examination
3	giving to the Regulator a statement under section 128G of the Act	when the statement is submitted
4	giving to the Regulator a statement under section 128G of the Act within 1 month after it fell due (in addition to the fee payable because of item 3)	when the statement is submitted

Item	A fee payable for ...	is due and payable ...
5	giving to the Regulator a statement under section 128G of the Act more than 1 month after it fell due (in addition to the fee payable because of item 3)	when the statement is submitted
6	giving to the Regulator particulars under section 128H of the Act within 1 month after they fell due	when the particulars are submitted
7	giving to the Regulator particulars under section 128H of the Act more than 1 month after they fell due	when the particulars are submitted
8	inspecting or searching a register that the Regulator keeps under Division 1A of the Act	when the request is made

[4] After Part 13

insert

Part 14 Transitional arrangements

Division 14.1 Transitional arrangements arising out of *Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012*

14.01 Definition

In this Part:

sign off, in relation to an audit (an *SMSF audit*) of a superannuation entity that is a self managed superannuation fund, means the action that occurs when an auditor gives a report of the kind mentioned in subsection 35C (1) of the Act to each trustee of the entity for subsection 35C (6) of the Act.

14.02 Applications before 1 July 2013 as an approved SMSF auditor

For item 71 of the *Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012*, the table sets out the prescribed circumstances.

Item	Prescribed circumstance	Requirement of paragraph 128B (1) (a) of the Act taken to have been met
1	An approved auditor has signed off on an SMSF audit in the 12 months immediately before applying for registration as an approved SMSF auditor under section 128A of the Act	subparagraph 128B (1) (a) (ii)
2	An approved auditor has signed off on at least 20 SMSF audits in the 12 months immediately before applying for registration as an approved SMSF auditor under section 128A of the Act	subparagraph 128B (1) (a) (iii)
3	An approved auditor is a registered company auditor at the time of making an application under section 128A of the Act	subparagraphs 128B (1) (a) (ii) and (iii)

[5] Schedule 1AAA, table, item 3

omit

National Institute of Accountants

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Institute of Public Accountants

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.